

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

DIRAETT WYNN,

Plaintiff,

VS.

OFFICER CALVIN ROSS,

Defendant.

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**7 : 12-CV-139 (HL)**

**RECOMMENDATION**

Plaintiff, who is proceeding *pro se*, brought the above-styled action pursuant to 42 U.S.C. § 1983 on October 15, 2012, alleging Defendant violated Plaintiff's Eighth Amendment rights. (Doc. 1). Defendant filed an Answer in this case on March 26, 2013. (Doc. 20). On June 3, 2013, Plaintiff filed a Motion to Dismiss, requesting the Court dismiss the case because Plaintiff has not exhausted his administrative remedies. (Doc. 21).

If an Answer has been filed, "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). Plaintiff states he has not exhausted his administrative remedies. (Doc. 21). Thus, his action would be dismissed pursuant to 42 U.S.C. § 1997e(a). Accordingly, it is the recommendation of the undersigned that Plaintiff's Motion to Dismiss be **GRANTED** and that his Complaint be **DISMISSED without prejudice**.

Defendant filed a Motion to Dismiss on September 27, 2013. (Doc. 22). As the undersigned recommends that Plaintiff's Motion to Dismiss be granted, it is the recommendation of the undersigned that Defendant's Motion to Dismiss be **found to be moot**.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to the recommendations contained herein with the Honorable Hugh Lawson, United States District Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy of this Recommendation

**SO RECOMMENDED**, this 30<sup>th</sup> day of September, 2013.

s/ ***THOMAS Q. LANGSTAFF***  
UNITED STATES MAGISTRATE JUDGE